

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

PATRICIA ANN FORD,

Case No. 14-14794

Plaintiff,

HONORABLE ARTHUR J. TARNOV

v.

SENIOR UNITED STATES DISTRICT JUDGE

ROOSEN, VARCHETTI & OLIVIER,
PLLC,

HONORABLE DAVID R. GRAND
UNITED STATES MAGISTRATE JUDGE

Defendant.

ORDER GRANTING PLAINTIFF'S EX PARTE
MOTION FOR ALTERNATE SERVICE [3]

Before the Court is Plaintiff's Ex Parte Motion for Alternate Service [3] and its attendant Exhibit B [4]. Plaintiff has been unable to effectuate service of the Summons [2] in this matter due to Defendant's deliberate evasion of service. Plaintiff does not request a specific alternative method of service.

On February 6, 2015, Plaintiff counsel presented an envelope containing a Waiver of Service Summons and Complaint to a white lady at the front desk of the law office at 39541 Garfield Road, Clinton Township, Michigan 48038. As Plaintiff counsel was returning to his truck in the parking lot, a younger white man ran out of the office and put the envelope containing the Waiver of Service in the bed of Plaintiff counsel's pickup truck.

Subsequently, Plaintiff's counsel retained U.S. Federal Process Service to effectuate service on Defendant. On February 18, 2015, S. Miller, on behalf of U.S.

Federal Process Service, attempted personal service on Paul E. Varchetti, as Defendant's Registered Agent, at 39541 Garfield Road, Clinton Township, Michigan 48038. The receptionist at that address told Miller that there was no one in the office who could accept service and that Paul Varchetti was out of town. A manager at the office who would only give his first name, Carl, stated that Miller would have to make an appointment to serve Paul Varchetti. When Miller tried to make an appointment, Carl stated that he could not make an appointment without Varchetti.

On March 3, 2015, Miller, on behalf of U.S. Federal Process Service, contacted Defendant via telephone (586-868-2737) to schedule an appointment to effectuate service on Defendant. The receptionist told Miller he could speak to Paul Varchetti and put Miller on hold. Then the receptionist picked up the phone and asked what the call was regarding. When Miller stated he had a federal summons to serve, the receptionist said she was not sure whether Paul Varchetti was in the office. The receptionist put Miller back on hold, ostensibly to check if Varchetti was in the office, and upon her return, told Miller that Paul Varchetti was out and she would take a message.

Subsequently, Plaintiff's counsel retained Allen and Hope Process Serving ("AHPS") to effectuate service on Defendant. On March 6, 2015, AHPS attempted personal service on Defendant at 39541 Garfield Road, Clinton Township, Michigan 48038 by leaving the Summons and Complaint at the front desk of the office with a

blond lady, who was approximately fifty years old. *See* [3] at 2; [4]. The lady indicated that she could not accept service and called out to “Paul.” The man who responded to the name “Paul” ran outside and threw the Summons and Complaint at the AHPS server as she was driving away. The AHPS server then placed the Summons and Complaint on the door of Defendant’s office, which “Paul” had locked.

Michigan public records indicate that Paul E. Varchetti is the Registered Agent for service of process for Defendant Roosen, Varchetti & Olivier, PLLC. Michigan public records further indicate that process may be served upon Defendant at 39541 Garfield, Clinton Township, Michigan 48038. The Court finds that service of process cannot reasonably be made in a manner set forth under Michigan law, and that the substitute means are reasonably calculated to give Defendant actual notice of the proceedings and an opportunity to be heard. FRCP 4(e)(1); Mich. Ct. R. 2.105(I)(1). Accordingly,

IT IS ORDERED that Plaintiff’s Ex Parte Motion for Alternate Service [3] is **GRANTED**.

IT IS FURTHER ORDERED that the Summons [2] in this matter shall **NOT EXPIRE** until May 17, 2015.

IT IS FURTHER ORDERED that Plaintiff **SHALL SERVE** Defendant on or before April 30, 2015 in the following manner:

mailing a copy of the Summons [2], the Complaint [1], her *Ex Parte* Motion for Alternate Service [3], her Exhibit [4], and this Order [5] by registered mail (return receipt requested) to 39541 Garfield Road, Clinton Township, Michigan 48038 to Paul E. Varchetti's and Roosen, Varchetti & Olivier, PLLC's attention.

IT IS FURTHER ORDERED that Plaintiff **SHALL FILE** the return receipt confirming service as provided *supra*.

IT IS FURTHER ORDERED that Defendant **SHALL SHOW CAUSE** why the Court should not award Plaintiff the fees and costs she has incurred attempting service in this matter.

SO ORDERED.

Dated: April 10, 2015

s/Arthur J. Tarnow

Arthur J. Tarnow

Senior United States District Judge